

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrea Simpson 8/21/17
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2017-0046

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

National Construction, LLC
224 Falls Road
Bethany, CT 06524

Total Dollar Amount of Receivable \$ 2,003 Due Date: 2/1/18

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ 338 on 9/1/17
2nd \$ 336.33 on 10/1/17
3rd \$ 336.33 on 11/1/17
4th \$ 336.33 on 12/1/17
5th \$ 336.33 on 1/1/18

6th 336.33 2/1/18

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

August 21, 2017

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square
Boston, Massachusetts 02109



Re: National Construction LLC
Docket No. TSCA-01-2017-0046

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order. Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink that appears to read "Andrea Simpson".

Andrea Simpson
Senior Enforcement Counsel

cc: National Construction LLC

Enclosure

Docket No. TSCA-01-2017-0046

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, the original and one copy of the Consent Agreement and Final Order in the matter of National Construction LLC, Docket No. TSCA-01-2017-0046 were filed with the Regional Hearing Clerk and a copy was sent to Respondent, as set forth below:

Original and one copy
by hand delivery to:

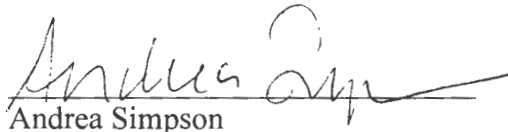
Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1, (ORA18-1)
5 Post Office Square, Suite100
Boston, MA 02109

Copy by certified mail to:

National Construction LLC
c/o Ferdinand Escoffery
224 Falls Road
Bethany, CT 06524

Date:

8/21/17



Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region 1, Mail Code OES04-2
5 Post Office Square, Suite 100
Boston, MA 02109
(617) 918-1738
simpson.andrea@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

RECEIVED

AUG 21 2017

EPA ORC WS
Office of Regional Hearing Clerk

RRP Microbusiness Settlement Agreement
Issued under Section 16 of TSCA, 15 U.S.C. § 2615
and 40 C.F.R. § 22.13(b) and 22.18(b)
Docket Number TSCA-01-2017-0046

The U.S. Environmental Protection Agency (“EPA”) finds that Respondent, National Construction, LLC, 224 Falls Road, Bethany, Connecticut 06524, failed to comply with the Renovation, Repair and Painting (“RRP”) Rule, set forth at 40 C.F.R. Part 745, Subpart E, promulgated under Sections 402(c) and 406(b) of the Toxic Substances Control Act (“TSCA”), §§ 2682(c) and 2686(b), during a “renovation,” as defined at Section 401(17) of TSCA, 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.83, of “target housing,” as defined at 40 C.F.R. § 745.103 at 245 Ferry Street, New Haven, Connecticut.

EPA finds that Respondent was subject to the RRP Rule and failed to comply with:

- (1) Certification Requirements of 40 C.F.R. §745.89(d)(2) pursuant to 40 C.F.R. §745.81(a)(2) by failing to ensure that a certified renovator is assigned to each renovation performed by the firm and that the firm discharges all of the certified renovator responsibilities identified in 40 C.F.R. §745.90.
- (2) Recordkeeping requirements by failing to maintain renovation records and reports for at least three (3) years in accordance with 40 C.F.R. §745.86(a) as required by 40 C.F.R. §745.89(d);
- (3) Work practice requirements by failing to cover the ground with plastic sheeting prior to renovation in accordance with 40 C.F.R. §745.85(a)(2)(ii)(C) as required by 40 C.F.R. §745.89(d); and
- (4) Work practice requirements by failing to post warning signs clearly defining work areas in accordance with 40 C.F.R. §745.85(a)(1) as required by 40 C.F.R. §745.86(d).

Section 16(a) of TSCA, 15 U.S.C. § 2615(a), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, authorize assessment of a civil penalty of up to \$37,500 per day per violation, for violations occurring on or after January 13, 2009.

For the purpose of this proceeding, Respondent admits it is subject to the RRP Rule and TSCA and that EPA has jurisdiction over Respondent. Respondent neither admits nor denies the specific factual allegations stated above, consents to the assessment of the penalty below, and waives any objections it may have to EPA’s jurisdiction in this matter.

The parties enter into this RRP Settlement Agreement ("Agreement") in order to settle the civil violations alleged above. Pursuant to TSCA and the Consolidated Rules of Practice at 40 C.F.R. Part 22, based on the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of **\$2,003**. Based on Respondent's ability to pay, Respondent consents to the issuance of this Agreement and consents to the payment of such penalty in six monthly installments, including interest. EPA has determined that this payment plan is in the best interest of the United States. The payments shall be made as follows:

First payment due September 1, 2017: \$338;
Second payment due October 1, 2017: \$336.33 (\$333 principal plus \$3.33 interest);
Third payment due November 1, 2017: \$336.33 (\$333 principal plus \$3.33 interest);
Fourth payment due December 1, 2017: \$336.33 (\$333 principal plus \$3.33 interest);
Fifth payment due January 1, 2018: \$336.33 (\$333 principal plus \$3.33 interest);
Sixth payment due February 1, 2018: \$336.33 (\$333 principal plus \$3.33 interest).

If Respondent fails to make any payment by its due date, the full amount of \$2,003, plus interest from the effective date, shall be due immediately. Respondent shall pay interest on the late amount pursuant to 15 U.S.C. § 2615 and 31 U.S.C. § 3717, plus any late charges to cover the cost of processing and handling the delinquent claim. The interest on the late amount shall be calculated at the rate of the U.S. Treasury tax and loan rate, in accordance with 31 C.F.R. § 901.9(b)(2).

Respondent agrees that the first payment shall be made by September 1, 2017, as set out above, and that the additional five payments shall be made in accordance with the above-schedule. Respondent shall submit checks, with case name and docket number noted ("In the Matter of National Construction LLC, Docket No. TSCA-01-2017-0046"), for the amounts specified above, payable to "Treasurer, United States of America," and mail the checks to: U.S. EPA, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

Respondent shall also submit a copy of each check to: EPA Regional Hearing Clerk, U.S. EPA - Region 1 (New England), 5 Post Office Square, Suite 100 (ORA18-1), Boston, MA 02109-3912 and to Andrea Simpson, Senior Enforcement Counsel, U.S. EPA - Region 1 (New England), 5 Post Office Square, Suite 100 (OES04-2), Boston, MA 02109-3912.

Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Respondent consents to the assessment of the penalty and waives its right to: (1) contest the findings of violation specified in this Agreement; (2) a judicial or administrative hearing or appeal on any issue of law or fact set forth herein; and (3) appeal the Final Order accompanying this Agreement.

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the U. S. Government, that it has corrected all violations and is in full compliance

with the RRP Rule including, as necessary, obtaining renovator and/or firm certification and training.

This Agreement settles EPA's civil penalty claims against Respondent for the violations specified above. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future violations of the RRP Rule, TSCA, or of any other federal statute or regulation.

Nothing in this agreement is intended to, nor shall be construed to operate in any way to resolve any criminal liability of Respondent, and nothing in this Agreement shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment. Each party shall bear its own costs and fees, if any. Respondent specifically waives any right to recover costs pursuant to the Equal Access to Justice Act, 5 U.S.C. §504.

If Respondent does not sign and return this Agreement within **twenty (20) days** of the date of its receipt, this proposed settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified herein.

This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. §22.31(b), this Agreement is effective upon filing with the Regional Hearing Clerk.

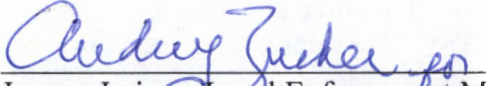
APPROVED BY NATIONAL CONSTRUCTION LLC:

Name (print): Ferdinand Escoffery

Title (print): owner

Signature:  Date: 8-217

APPROVED BY EPA:


Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA - Region 1 (New England)

Date: 8/17/2017

~~IT IS SO ORDERED:~~

~~LeAnn Jensen~~
~~Acting Regional Judicial Officer~~
~~U.S. EPA - Region 1 (New England)~~

Date: _____

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

_____)
IN THE MATTER OF:)
)
National Construction, LLC)
224 Falls Road)
Bethany, CT 06524)
)
Respondent.)
_____)

EPA Docket No.
TSCA-01-2017-0046

RECEIVED
AUG 21 2017
EPA ORC *WS*
Office of Regional Hearing Clerk

FINAL ORDER

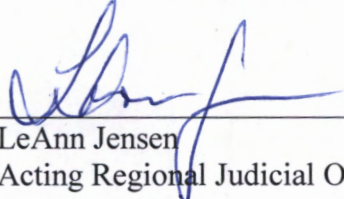
In accordance with 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency’s Consolidated Rules of Practice (CROP), the Parties to this matter have submitted the above-captioned executed RRP Microbusiness Settlement Agreement to me for final approval. Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), authorizes the Complainant, the United States Environmental Protection Agency, Region 1 (EPA), to issue an administrative penalty of up to \$37,500 per day per violation to enforce the requirements of this Act. Section 16(a)(2)(B) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a)(2)(B), authorizes EPA to consider, among other things, “the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay[...], and such other matters as justice may require” when determining the amount of the civil penalty. As a result, EPA may compromise the maximum civil penalty of \$37,500 per day per violation.

In addition, pursuant to 40 C.F.R. § 22.31(c) and 40 C.F.R. § 13.18, the violator must pay the full amount of any civil penalty assessed in the final order within 30 days after the effective date of the final order unless otherwise ordered. The payment plan must be in EPA’s best

interest. 40 C.F.R. § 13.18. EPA has determined that the payment plan contained in the Settlement Agreement is in the Agency's best interest.

Pursuant to 40 C.F.R. § 22.18(b), the Settlement Agreement is incorporated by reference into this Final Order and is hereby ratified. The Respondent is ordered to pay a civil penalty in the amount of \$2,003 in the manner indicated, and in accordance with the payment schedule contained, in the Settlement Agreement. The terms of the Settlement Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 18th DAY OF AUGUST 2017.



LeAnn Jensen
Acting Regional Judicial Officer